

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 1/13/2025
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
PEDRO SANTOS,
:

Plaintiff,
:

1:23-cv-3726-GHW

-against-
:

ORDER

ROGANS REALTY CORP, *et al.*,
:

Defendants.
:
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GREGORY H. WOODS, District Judge:

For the reasons stated on the record during the conference held on January 13, 2025, the parties are ordered to submit a joint letter no later than Wednesday, January 15, 2025 providing: (1) any comments on the draft case description to be read to the venire, which the Court provided to the parties at the conference; (2) any comments on the draft list of *voir dire* questions, which the Court provided to the parties at the conference; (3) the parties' positions on whether the jury should be instructed on the law governing Plaintiff's claims under both the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et. seq.* ("FLSA") and New York Labor Law, N.Y. Lab. Law § 650 *et seq.* ("NYLL"), or only on the law governing Plaintiff's claims under the NYLL; (4) whether Plaintiff intends to seek call-in pay at trial, and, if yes, the legal basis for doing so; and (5) whether Defendant intends to raise an affirmative defense at trial that Plaintiff is exempt from overtime-pay requirements under New York law by virtue of N.Y. Comp. Codes R. & Regs. tit. 12, § 141-3.4, and, if yes, the legal basis for Defendant's position that this affirmative defense has not been waived.


Also by January 15, 2025, Plaintiff is directed to provide Defendants with a proposed jury charge addressing Plaintiff's burden of demonstrating standing to bring his claims for violations of N.Y. Lab. L. § 195(1)(a) and N.Y. Lab. L. § 195(3), and Defendants are directed to provide Plaintiff with a proposed jury charge regarding their affirmative defense that Plaintiff is exempt from

overtime-pay requirements under New York law by virtue of N.Y. Comp. Codes R. & Regs. tit. 12, § 141-3.4, if Defendant intends to raise that affirmative defense at trial.

Finally, the parties are ordered to submit a joint letter no later than Monday, January 20, 2025 providing: (1) any comments on the draft overview of the law to be read to the jury, which the Court will provide to the parties; (2) a joint proposed jury instruction addressing Plaintiff's burden of demonstrating standing to bring claims for violations of N.Y. Lab. L. § 195(1)(a) and N.Y. Lab. L. § 195(3); (3) a joint proposed jury instruction regarding Defendants' affirmative defense that Plaintiff is exempt from overtime-pay requirements under New York law by virtue of N.Y. Comp. Codes R. & Regs. tit. 12, § 141-3.4, if Defendant intends to raise this affirmative defense at trial; and (4) a joint proposed jury instruction regarding call-in pay, if Plaintiff intends to seek call-in pay at trial.

SO ORDERED.

Dated: January 13, 2025
New York, New York



GREGORY H. WOODS
United States District Judge